

Town Yard Project (Articles related to 40R)

1. **ARTICLE:** To see if the Town will amend Article VIII, Section 2.2. Overlay Districts of the Zoning Bylaw by adding at the end of Section 2.2, Andover Smart Growth Overlay District

On the Request of the Town Yard Task Force and Planning Director

2. **ARTICLE:** To see if the Town will amend Article VIII, Section 8.0 Special District Regulations of the Zoning Bylaw by adding the following new section 8.7 Andover Smart Growth Overlay District (ASGOD). The ASGOD consist of approximately 24.33 acres of land in the vicinity North Main, Pearson, Essex and Railroad Streets:

“SECTION 8.7: ANDOVER SMART GROWTH OVERLAY DISTRICT (ASGOD)”

8.7.1 Purpose. It is the purpose of this Section to establish an Andover Smart Growth Overlay District (ASGOD) and to encourage smart growth in accordance with the purposes of G. L. Chapter 40R, and to foster a range of housing opportunities along with a mixed-use development component, to be proposed in a distinctive and attractive site development program that promotes compact design, preservation of open space, and a variety of transportation options, including enhanced pedestrian access to employment and nearby transportation systems. Other objectives of this Section are to:

1. Promote the public health, safety, and welfare by encouraging diversity of housing opportunities;
2. To promote mixed use and economic development that is safe, pedestrian friendly, and oriented to rail transit;
3. Increase the production of a range of housing units to meet existing and anticipated housing needs;
4. Provide a mechanism by which residential development can contribute directly to increasing the supply and diversity of housing;
5. Establish requirements, standards, and guidelines, and ensure predictable, fair and cost-effective development review and permitting;
6. Establish development standards to allow high quality design and creative site planning;
7. Enable the Town to receive Zoning Incentive Payments and/or Density Bonus Payments in accordance with G. L. Chapter 40R, 760 CMR 59.06, and additional Chapter 70 aid in accordance with G.L. Chapter 40S arising from the development of housing in the ASGOD.

8.7.2 Definitions. For purposes of this Section, the following definitions shall apply. All capitalized terms shall be defined in accordance with the definitions established under the Enabling

Laws or this Section 8.7. To the extent that there is any conflict between the definitions set forth in this Section and the Enabling Laws, the terms of the Enabling Laws shall govern.

Affordable Homeownership Unit: A dwelling unit required to be sold to an Eligible Household.

Affordable Housing: A dwelling unit that is affordable to and occupied by Eligible Households.

Affordable Housing Restriction: A deed restriction of Affordable Housing meeting statutory requirements in G.L. c. 184, § 31 and the requirements of Section 8.7 of this Bylaw.

Affordable Rental Unit: A dwelling unit required to be rented to an Eligible Household.

As-of-right Project or Project: means a Multifamily Use development or a Mixed Use development allowed hereunder without recourse to a special permit, variance, zoning amendment, or other form of zoning relief.

Design Standards: Standards adopted to preserve and augment the architectural qualities, historic character and pedestrian scale of, and which are applicable to, all Development Projects. See Section 8.7.10.

Development Project: A residential, commercial or mixed-use development undertaken under Section 8.7. A Development Project shall be identified on the Site Plan which is submitted to the Plan Approval Authority for Site Plan Review.

DHCD: The Department of Housing and Community Development of the Commonwealth of Massachusetts or any successor agency.

Dwelling Unit: One (1) or more rooms with cooking, living, sanitary and sleeping facilities arranged for the use of one (1) or more persons living together as a single housekeeping unit.

Eligible Household: An individual or household whose annual income is less than 80 percent of the area-wide median income as determined by the United States Department of Housing and Urban Development (HUD), adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

Enabling Laws: G.L. Chapter 40R and 760 CMR 59.00.

Mixed Use: Any structure containing two or more of the Permitted Uses as set forth in Section 8.7.6.

Multifamily Dwelling: Dwelling containing four or more dwelling units.

Plan Approval: Standards and criteria which a Project in the ASGOD must meet under the procedures established herein and in the Enabling Laws.

Plan Approval Authority (PAA): For purposes of reviewing Project applications and issuing decisions on development Projects within the ASGOD, the Plan Approval Authority (PAA), consistent with G.L. c. 40R and 760 CMR 59.00, shall be the Planning Board. The PAA is authorized to approve a site plan to implement a Project.

Plan Review: The review procedure established by this Section 8.7 and administered by the Plan Approval Authority.

Site Plan: A plan depicting a proposed Development Project for all or a portion of the ASGOD and which is submitted to the Plan Approval Authority for its review and approval in accordance with provisions of this Bylaw.

Structured Parking Facilities: A structure or structures constructed to provide off street parking for automobiles required by the provisions of Section 8.7 in connection with the construction of a Development Project. To the greatest extent possible Structured Parking Facilities shall be constructed at grade level or sub-grade level.

Substantially Developed Land: Land within the ASGOD that is currently used for commercial, industrial, institutional or governmental use, or for residential use consistent with or exceeding the densities allowable under the underlying zoning.

Zoning By-law: The Zoning By-law of the Town of Andover applicable to the geographic area in which the ASGOD is located as said By-law may from time to time be amended.

8.7.3 Overlay District. The ASGOD is an overlay district having a land area of approximately 24.33 acres, as shown on a plan entitled “Figure 6: District Boundary, as prepared by the Cecil Group, dated December 31, 2009”; that is superimposed over the underlying zoning district(s), as attached hereto as Appendix B. This map is hereby made a part of the Zoning By-Law and is on file in the Office of the Town Clerk.

1. *Underlying Zoning.* The ASGOD is an overlay district superimposed on all underlying zoning districts. The Zoning By-law governing the underlying zoning district(s) shall remain in full force and effect except for Projects undergoing development pursuant to this Section 8.7. Within the boundaries of the ASGOD a developer may elect to develop a project in accordance with the Smart Growth Zoning, or to develop a project in accordance with the requirements of the regulations for use, dimension and all other provisions of the Zoning By-law governing the underlying zoning district(s).

2. *Applicability of ASGOD.* In accordance with the provisions of G.L. Chapter 40R and 760 CMR 59.00, an Applicant for a Project located within the ASGOD may seek Plan Approval in accordance with the requirements of this Section 8.7. In such case, then notwithstanding anything to the contrary in this Zoning By-Law, such Plan Approval shall not be subject to any other provisions of this Zoning By-Law, including limitations upon the issuance of building permits for residential uses related to a rate of development or phased growth limitation or to a local moratorium on the issuance of such permits, or to building permit or dwelling unit limitations. When a building permit is issued for any Project approved in accordance with this Section 8.7, the provisions of the underlying district(s) shall no longer be applicable to the land shown on the site plan which was submitted pursuant to Section 8.7 for such Project.

8.7.4 Housing and Affordability.

1. *Marketing Plan.* Prior to granting Plan Approval for housing within the ASGOD, an Applicant for such approval must submit a narrative document, housing marketing plan, and resident selection plan that establish that the proposed development of housing is appropriate for diverse populations, including households with children, other households, individuals, households including individuals with disabilities, and the elderly. These documents in combination, to be submitted with an application for Plan Approval pursuant to Section 8.7.12, below, shall include details about construction related to the provision, within the Development Project, of units that are accessible to the disabled. The marketing plan must be approved by DHCD prior to the issuance of a building permit for a Development Project.

2. *Number of Affordable Housing Units.* Not less than twenty percent (20%) of the total dwelling units constructed in a Project shall be Affordable Housing. For all Projects where the Affordable Housing units proposed are Rental Units the Plan Approval Authority may require that not less than twenty five percent (25%) of total housing units in any building containing rental units shall be Affordable Housing units; provided, however, that 20% of such units may be affordable where restricted to households earning less than 50% of area median income. For purposes of calculating the number of units of Affordable Housing units required within a Project, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.

3. *Requirements.* Affordable Housing shall comply with the following requirements:

a. For an Affordable Rental Unit, the monthly rent payment, including utilities and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one, unless other affordable program rent limits approved by the DHCD shall apply.

b. For an Affordable Homeownership Unit the monthly housing payment, including mortgage principal and interest, private mortgage insurance, property taxes, condominium and/or homeowner's association fees, insurance, and parking, shall not exceed 30 percent of the maximum monthly income permissible for an Eligible Household, assuming a family size equal to the number of bedrooms in the unit plus one.

c. Affordable Housing required to be offered for rent or sale shall be rented or sold to and occupied only by Eligible Households.

d. The ASGOD shall not include the imposition of restrictions on age upon the entire District, but the development of specific Projects within the ASGOD may be exclusively for the elderly, persons with disabilities, or for assisted living, provided that any such Project shall be in compliance with all applicable federal, state and local fair housing laws and regulations and not less than 25% of the housing units in such a restricted Project shall be restricted as Affordable Housing.

e. At least 10% of the Affordable Housing Units shall be handicapped-accessible.

4. *Design and Construction.* Units of Affordable Housing shall be finished housing units. Units of Affordable Housing shall be dispersed throughout the development of which they are part and be comparable in initial construction, quality and exterior design to other housing units in the development. The total number of bedrooms in the Affordable Housing shall be proportionate to the total number of bedrooms in all the units in the Development Project of which the Affordable Housing is part.

5. *Affordable Housing Restriction.* Each unit of Affordable Housing shall be subject to an Affordable Housing Restriction which is recorded with the appropriate registry of deeds or district registry of the Land Court and prior to such recording has been approved by DHCD. Such Affordable Housing Restriction shall contain the following:

a. Specification of the term of the Affordable Housing Restriction which shall be the maximum period allowed by law but not less than ninety nine years;

b. The name and address of a Monitoring Agent with a designation of its power to monitor and enforce the Affordable Housing Restriction;

c. A description of the Affordable Homeownership Unit, if any, by address and number of bedrooms; and a description of the overall quantity and number of bedrooms and number of bedroom types of Affordable Rental Units in a Project or portion of a Project which are rental. Such restriction shall apply individually to the specifically identified Affordable Homeownership Unit and shall apply to a percentage of rental units of a rental Project or the rental portion of a Project without specific unit identification.

d. Reference to a housing marketing and resident selection plan, to which the Affordable Housing is subject, and which includes an affirmative fair housing marketing program, including public notice and a fair resident selection process. If approved by DHCD, the housing marketing and selection plan may provide for preferences in resident selection. for the Affordable Housing Units; the plan shall designate the household size appropriate for a unit with respect to bedroom size and provide that the preference for such Unit shall be given to a household of the appropriate size;

e. A requirement that buyers or tenants will be selected at the initial sale or initial rental and upon all subsequent sales and rentals from a list of Eligible Households compiled in accordance with the housing marketing and selection plan;

f. Reference to the formula pursuant to which rent of a rental unit or the maximum resale price of a homeownership will be set;

g. Designation of the priority of the Affordable Housing Restriction over other mortgages and restrictions, provided that a first mortgage of a Homeownership Housing Unit to a commercial lender in an amount less than maximum resale price may have priority over the Affordable Housing Restriction if required by then current practice of commercial mortgage lender;

- h. A requirement that only an Eligible Household may reside in Affordable Housing and that notice of any lease or sublease of any unit of Affordable Housing shall be given to the Monitoring Agent;
- i. Provision for effective monitoring and enforcement of the terms and provisions of the Affordable Housing Restriction by the Monitoring Agent;
- j. Provision that the restriction on an Affordable Homeownership Unit shall run in favor of the Monitoring Agent and the Town, in a form approved by municipal counsel, and shall limit initial sale and resale to and occupancy by an Eligible Household;
- k. Provision that the restriction on Affordable Rental Units in a rental Project or rental portion of a Project shall run with the rental Project or rental portion of a Project and shall run in favor of the Monitoring Agent and the Town, in a form approved by municipal counsel, and shall limit rental and occupancy to an Eligible Household;
- l. Provision that the owner(s) or manager(s) of Affordable Rental Unit(s) shall file an annual report to Monitoring Agent, in a form specified by that Agent certifying compliance with the affordability provisions of this By-law and containing such other information as may be reasonably requested in order to ensure affordability;
- m. A requirement that residents in Affordable Housing provide such information as the Monitoring Agent may reasonably request in order to ensure affordability.

6. *Monitoring Agent.* A Monitoring Agent which may be the Local Housing Authority, or other qualified housing entity shall be designated by the PAA as the Monitoring Agent for all Affordable Housing units in the ASGOD. In a case where the Monitoring Agent cannot adequately carry out its administrative duties, upon certification of this fact by the PAA or by DHCD, such duties shall devolve to and thereafter be administered by a qualified housing entity designated by the PAA or, in the absence of such timely designation, by an entity designated by the DHCD. In any event, such Monitoring Agent shall ensure the following, both prior to issuance of a building permit for a Project within the ASGOD, and on a continuing basis thereafter, as the case may be:

- a. Prices of Affordable Homeownership Units are properly computed; rental amounts of Affordable Rental Units are properly computed;
- b. Income eligibility of households applying for Affordable Housing is properly and reliably determined;
- c. The housing marketing and resident selection plan conforms to all requirements and is properly administered;
- d. Sales and rentals are made to Eligible Households chosen in accordance with the housing marketing and resident selection plan with appropriate unit size for each household being properly determined and proper preference being given; and

e. Affordable Housing Restrictions meeting the requirements of this Section are recorded with the proper registry of deeds or district registry of the Land Court.

7. *Housing Marketing and Selection Plan.* The housing marketing and selection plan shall make provision for payment by the Project applicant of reasonable costs to the Monitoring Agent to develop, advertise, and maintain the list of Eligible Households and to monitor and enforce compliance with affordability requirements, as set forth in Section 8.7.4.

8. *Phasing.* The PAA, as a condition of any Plan Approval, may require a Development Project to be phased in order to mitigate any extraordinary adverse Project impacts on nearby properties. For Development Projects that are approved and developed in phases, the PAA shall assure the required number of Affordable Housing Units in the Project. Such assurance may be provided through use of the security devices referenced in G.L. c. 41, § 81U, or through the PAA's withholding of certificates of occupancy until proportionality has been achieved. No Density Bonus Payment will be received by the Town until such proportionality has been achieved by the issuance of occupancy permits for the Affordable Housing Units in the Development Project.

9. *Computation.* Prior to the granting of any Plan Approval of a Development Project, the applicant must demonstrate, to the satisfaction of the Monitoring Agent, that the method by which such affordable rents or affordable purchase prices are computed shall be consistent with state or federal guidelines for affordability applicable to the Town.

10. *No Waiver.* Notwithstanding anything to the contrary herein, the Affordability provisions in this Section 8.7.4 shall not be waived.

8.7.5 Substantially Developed Land. For Substantially Developed Land, the construction of infill housing on existing vacant lots, and of additional housing units in existing residential buildings or additions thereto or replacements thereof, shall be permitted as of right. The allowable residential densities in such Substantially Developed Land shall be equal to those set forth in the underlying zoning. The adoption of the ASGOD shall supersede the use regulations applicable in the underlying zoning to the extent necessary to permit such residential uses as of right.

8.7.6 Permitted Uses

1. *Principal Uses.* The following uses are permitted as of right in the ASGOD. All other uses are prohibited:

- a. Multifamily dwelling;
- b. Mixed use;
- c. Municipal Facilities;
- d. Structured Parking Facilities;

c. Nonresidential uses, in accordance with the following “Table of Non-residential Uses”:

Use	Permissions
<u>Institutional Uses</u>	
1. Religious or educational uses exempt from zoning prohibition by G.L. c.40A, § 3.	Y
2. Municipal facility	Y
3. Child care facility	
a. In existing structure	Y
b. In new structure	PB
4. Any use or facility operated by a private nonprofit organization for the conservation of natural resources, for the preservation of historic sites, or for park or recreational purposes	Y
5. Hospital	N
6. Philanthropic or charitable institution	BA
<u>Business and Commercial Uses</u>	
1. Outdoor recreation club or camp	N
2. Private club not conducted for profit	Y
3. Personal service establishment	Y
4. Adult uses (see Section 6.5 of the Zoning By-Law)	N
5. Banking establishment	Y
6. Retail sales establishment	Y
7. Convenience store	BA
8. Non-exempt educational use	Y
9. Medical center or clinic	Y
10. Funeral home	N
11. Self-service laundry or dry-cleaning operation	Y
12. Restaurants	
a. Restaurant, sit down	Y
b. Restaurant, fast food	Y
c. Restaurant, drive-in	N
13. Shop for custom work involving the manufacture of articles to be sold on the premises	Y
14. Indoor commercial recreation establishment	Y
15. Business, professional or administrative office	Y
16. Motel or hotel (see Section 4.1.5.1 of the Zoning By-Law)	Y
17. Commercial parking lot or garage	Y
18. Motor vehicle sale or rental	N
19. Motor vehicle service station	N
20. Motor vehicle repair garage or body shop (see Section 4.1.5.2 of the Zoning By-Law)	N
21. Car washing facility (see Section 4.1.5.2 of the Zoning By-Law)	N
22. Building supply and fuel establishment	N
23. Contractor's yard	N
24. Wholesale storage warehousing	N
25. Major non-residential project (see Sections 9.4 and 10.0 of the Zoning By-Law)	PB

Nonresidential use of any building, structure or land within the ASGOD is prohibited except as permitted above. For the purposes of the “Table of Non-

residential Uses,” the letter “Y” shall designate that a use requires Plan Approval, the letter “N” shall designate that a use is not permitted, the letters “BA” shall designate that the use requires a special permit from the Board of Appeals and the letters “PB” shall designate that the use requires a special permit from the Planning Board.

2. *Accessory Uses.* Uses which are subordinate to, clearly incidental to, customary in connection with , and located in the same structure a Permitted Principal Use and which does not, in effect, constitute conversion of the Permitted Principal Use to a use not otherwise permitted in the ASGOD shall be permitted as of right

8.7.7 Density.

1. *Residential.* The permissible residential density in the ASGOD is at least 20 Dwelling Units per developable acre. There are 12.66 developable acres. Residential density in the ASGOD is capped at 254 Dwelling Units.

2. *Nonresidential.* The total amount of nonresidential development in the ASGOD shall be capped at 350,000 square feet of Gross Floor Area, excluding any Municipal Structures and Structured Parking Facility.

3. *Nonresidential - Retail.* No individual retail establishment shall exceed 25,000 square feet of Gross Floor Area without specific approval of the PAA.

4. *Integration of Uses.* The PAA may require the integration of residential and nonresidential uses in a Mixed Use structure as a condition of Plan Approval.

5. *Multiple Buildings.* In the ASGOD more than one building may be erected on a single lot.

8.7.8 Dimensional Regulations.

1. *First Floor.* Buildings with a commercial use on the first floor shall be located directly behind the front sidewalk (0-foot maximum setback) on all streets. Regardless of the width of the existing sidewalk, a minimum of 8 feet shall be required from the curb line to the front of building.

2. *Height.* Building heights shall conform to and be measured according to the standards of the Andover Zoning Bylaws, with the following exceptions:

a. When adjacent to North Main Street, the maximum allowed heights of all buildings in the district shall be 35 feet or 3 stories, whichever is less, above the adjacent public street within a distance of 90 feet back from the property line on North Main Street.

b. After 90 feet back from the property line on North Main Street, the maximum allowed height shall be the maximum of 65 feet or 6 stories, whichever is less.

c. On Essex Street and Pearson Street, the maximum allowed heights buildings shall be 35' or two stories within 15 feet, after which allowed height shall be 45' within a

distance of 50 feet back from the property line on the public street. After 50 feet, the maximum allowed height shall be 65 feet.

d. South of Pearson Street, and when adjacent to Essex Street and Railroad Street, the maximum allowed heights buildings shall be 50 feet above the adjacent public street.

e. When a building façade extends more than 100 feet across a grade that changes 10 feet or more in elevation, the maximum height shall be determined from the average grade across each 100 foot increment.

f. No additional restrictions shall apply to buildings fronting on Lewis Street, Buxton Court, or to any new roads created within the district.

g. The height of any building in the ASGOD shall be the vertical distance measured from the average finished grade adjacent to said building (exclusive of basements) and the ceiling of the upper-most occupied space in the building in the case of flat roofs and in the case of buildings with pitched roofs, at the point at which the ceiling intersects the exterior portion of the building. The calculation of building height shall not apply to roof tanks and their supports, ventilating, air conditioning and similar service equipment, chimneys, railings and other similar features of buildings which are in no way designed for occupancy or use nor to the portion of a pitched roof above the intersection of the ceiling of the upper-most occupied space in the building.

3. *Coverage.* Maximum coverage in the ASGOD shall be 75% measured as to the total area of Developable Acres in the ASGOD.

4. *Parcel Size.* The minimum parcel size required for a Development Project shall be 2 acres.

8.7.9 Performance Standards

1. *Driveways.* Curb cuts provide for safe entering and exiting. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

2. *Interior Design.* The proposed development shall assure safe interior circulation within its site by separating pedestrian, bike ways, and vehicular traffic.

3. *Transportation Plan.* The proposed development shall be subject to an approved Transportation Plan. The Transportation Plan shall consist of the following information:

a. A plan showing the proposed parking, loading, traffic and pedestrian circulation within the site; access and egress points; and other features related to traffic generated by the proposed use. A minimum of two access and egress points will be required for each Development Project.

b. A traffic study, prepared by a qualified traffic engineer, detailing the expected traffic impacts. The required traffic study shall substantially conform to the Institute of Transportation Engineers' "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition. The PAA shall approve the geographic scope and content of the study. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.

c. Proposed mitigation measures, if any, including vehicle trip reduction from the project.

4. *Noise.* Any Project in the ASGOD shall comply with 310 CMR 31.07, as may be amended.

8.7.10 Design Standards

1. *General.* In order to preserve and augment the ASGOD's architectural qualities, historic character and pedestrian scale, Development Projects shall comply with the following Design Standards, except where a specific waiver is granted. Said Design Standards are intended to be applied flexibly by the PAA as part of the Plan Approval process.

Architectural Elements. The following architectural elements are appropriate for all Development Projects:

a. Building height that conforms to the standards of the Zoning By-law, subject to appropriate exceptions.

b. Massing of buildings such that first-floor commercial uses are located closest to the street, building separation is limited, the largest buildings are within the center of the ASGOD and entry corners to the ASGOD are highlighted as gateways.

c. Façades with high quality architectural style throughout a Development Project, incorporating sub-element façade features and colors complementary of a building's natural materials.

d. Storefronts that are consistent in style with building architecture, provide clarity and interest to the façade, provide for a high level of transparency and are harmonious with other adjacent storefronts.

e. High-quality, traditional exterior building materials, consistent across the building façade with limited exposure of concrete foundations.

f. Doors and windows appropriate to the architectural style of the Development Project, with transparent primary entrances facing the street, secondary entrances where appropriate and larger-scale, transparent windows at the ground level.

g. Awnings, canopies and marquees, if provided, that complement overall façade organization and identify storefront locations.

h. Signage that conforms to the standards of the Zoning By-law, that is of a type, color and material that complement the architectural style and details of the Development Project.

i. Preservation of historic structures or the historic nature of the neighborhood, where applicable.

Site Elements. The following site elements are appropriate for all Development Projects:

a. Lighting that is shielded so as to reduce light pollution, with pedestrian-scale lighting appropriate for sidewalks, walkways and parking areas.

b. Grading that minimizes the height of retaining walls, if any, and incorporates erosion controls.

c. Landscaping to include trees and other plantings along roadways, foundation landscaping, the division of large, paved areas with appropriate greenery and the preservation of existing, significant trees.

d. Landscaped buffers between commercial and residential use, and the installation of irrigations systems, if feasible.

e. Incorporation of pedestrian and bicycle amenities, including appropriately-surfaced, continuous sidewalks, bus stops and bicycle racks.

f. ADA-compliant sidewalks, limited pavement width and a controlled number of curb cuts for vehicle entrances to parking structures within the ASGOD.

g. Underground utilities and screened service areas.

h. Stormwater management systems that utilize Low Impact Development (LID) techniques, and minimization of impervious surfaces.

i. Design and construction that conforms to the “Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas,” published by the Department of Environmental Protection (DEP).

j. Parking located behind principal building, surface parking limited to on-street locations and structured parking screened with vegetation, fencing or otherwise.

k. Interconnection of Projects to provide safe vehicular, pedestrian, and bicycle access.

2. *Rules and Regulations.* The PAA may adopt, by majority vote, reasonable regulations for the implementation of these Design Standards.

3. *Amendments.* Any amendment to the Design Standards or the PAA's rules and regulations imposing a mandatory design requirement must be objective and not subjective and may only address the scale and proportions of buildings, the alignment, width, and grade of streets and sidewalks, the type and location of infrastructure, the location of building and garage entrances, off street parking, the protection of significant natural site features, the location and design of on-site open spaces, exterior signs, and buffering in relation to adjacent properties. DHCD may, at its discretion, require any amendment to the Design Standards or the PAA's rules and regulations to contain graphics illustrating a particular standard, guideline or definition in order to make such standard, guideline or definition clear and understandable.
4. *DHCD Approval.* All amendments to the Design Standard or the PAA rules and regulations shall be submitted to DHCD for approval prior to adoption by Town Meeting or the PAA. The DHCD may, at its discretion, require that any amendment to the Design Standards or the PAA's rules and regulations shall not take effect until approved by DHCD and filed with the Town Clerk. In submitting a proposed design standard or regulation for DHCD approval, the PAA shall also submit sufficient documentation clearly showing that the proposed design standard or regulation will not add unreasonable costs to Development Projects or unreasonably impair the economic feasibility of a Development Project. A letter from a developer, property owner or other interested party indicating that the Design Standards or the PAA's rules and regulations will not add unreasonable costs or unreasonably impair the economic feasibility of a Development Project shall not constitute sufficient documentation.
5. *Plan Approval.* An application for Plan Approval that has been submitted to the Town Clerk shall not be subject to any design standard or regulation that has not been approved by DHCD and filed with the Town Clerk.

8.7.11 Off-Street Parking and Loading Regulations.

1. *Structured Parking Required.* All parking within the ASGOD for any Project shall be accommodated within Structured Parking Facilities located within the ASGOD. On-street parking may be provided on streets within the Development Project in front of and near retail stores.
2. *Off-Street Parking and Loading Requirements.* Any structure that is constructed, enlarged, or extended, or has a change of use which affects the computation of parking spaces, and any use of land established, or any existing use is changed, parking and loading spaces shall be meet the following requirements:

Residential uses	1.0 space per unit
Nonresidential uses	3.0 spaces per 1,000 sq. ft. of gross floor area
3. *Allowance.* The PAA may make an allowance for up to 15% reduction with shared parking.
4. *Computation of Spaces.* When the computation of required parking or loading spaces results in the requirement of fractional space, any fraction over one-half shall require one space.

5. *Location of Loading Spaces.* Any loading spaces required shall in all cases be on the same lot as the use they are intended to serve. In no case shall the required loading spaces be part of the area used to satisfy the parking requirements of this by-law.

8.7.12 Application for Plan Approval

The Plan Approval Authority shall adopt and file with the Town Clerk administrative rules and regulations relative to the application requirements and content for Plan Review and Plan Approval. Such administrative rules and regulations, and any amendment thereto, must be approved by the DHCD. The Plan Review process encompasses the following:

1. *Pre-Application.* Prior to the submittal of a Plan Approval submission, a “Concept Plan” may be submitted to help guide the development of the definitive site plan for the proposed Development Project buildout and individual elements thereof. Such Concept Plan should reflect the following:

- a. Overall building envelope areas;
- b. Areas which shall remain undeveloped;
- c. General site improvements, groupings of buildings, and proposed land uses.

The Concept Plan is intended to be used as a tool for both the applicant and the PAA to ensure that the proposed Project design will be consistent with the Design Standards and Guidelines and the other requirements of the ASGOD.

2. *Application.* An application for Plan Approval shall be submitted to the PAA on the form provided by the PAA. An application shall show the proposed buildout of the entire Project, whether the Project will be phased or not.

3. *Required Submittals.* The application for Plan Approval shall be accompanied by the following plans and documents:

- a. Properly executed application form, and (if applicable) all materials necessary for facilitating a public hearing on the application;
- b. A filing fee in an amount established by the PAA and incorporated into the rules and regulations of the PAA relative to the application requirements for Plan Review and Plan Approval to cover Town administrative costs.
- c. List of any requested waivers from the requirements of this Section 8.7, including a detailed explanation/justification of the reason for such request.
- d. A site plan, prepared by a registered professional architect, registered civil engineer or a professional landscape architect, drawn at a scale of one (1) inch equals forty (40) feet, containing the following information: (a) date; (b) North arrow; (c) name and address of the owner; (d) name and address of the designer; (e) locus plan; (f) lot lines and setbacks; (g) adjacent streets and ways; (h) owners and uses of abutting lots;

(i) zoning district boundaries; (j) wetlands and wetlands buffers, as shown on maps entitled "Wetlands Areas of Andover, Massachusetts" available from the Conservation Commission; (k) all existing and proposed topography at two-foot intervals; (l) all test boring sites, keyed to accompanying documentation of results; (m) all existing and proposed buildings, structures, parking and loading areas (with dimensional notations), driveways, walkways, signs, fences and refuse collection areas; (n) all existing structures and/or pavement to be removed or demolished; (o) all utilities, including waterline locations, sewer line locations and profiles, and storm drainage systems; and (p) all areas designated as easements, conservation restriction areas or open space (wherever possible, provision for pedestrian/bicycle accessways connecting to adjacent open space, neighborhoods, schools, recreation areas or transportation facilities and for alternative transit programs).

e. A separate plan drawn at the same scale, showing landscaping and lighting details.

f. written statement detailing the size of the lot(s), the proposed use, parking calculations, building footprint coverage and calculations of volume of earth to be moved and removed.

g. For any Development Project subject to the Affordability requirements of Section 8.7.4, the application shall be accompanied by the following documents:

- (i) Evidence that the Development Project complies with the cost and eligibility requirements of Section 8.7.4;
- (ii) Development Project plans that demonstrate compliance with the design and construction standards of Section 8.7.4; and
- (iii) a form of Affordable Housing Restriction that satisfies the requirements of Section 8.7.4.

The applicant must also submit a copy of the aforementioned documents to the Monitor Agent at the time of Plan submission.

8.7.13 Procedures.

1. *Filing.* An applicant for Plan Approval shall file the application and all required submittals with the Town Clerk for certification of the date and time of filing, and shall also file forthwith twelve (12) copies of the application and the other required submittals with the PAA including notice of the date of filing with the Town Clerk.

2. *Circulation to Other Boards.* Upon receipt of the Application, the PAA shall immediately provide a copy of the application materials to the Board of Selectmen, Zoning Board of Appeals, Board of Health, Conservation Commission, Fire Department, Police Department, Inspector of Buildings, Department of Public Works, the Design Review Board, the Preservation Commission, and other municipal officers, agencies or boards designated by the PAA for comment, and any such board, agency or officer shall provide any written comments within 60 days of its receipt of a copy of the plan and application for approval.

3. *Hearing.* The PAA shall hold a public hearing for which notice has been given as provided in G.L. Chapter 40A, Section 11. The decision of the PAA shall be made, and a written

notice of the decision filed with the Town Clerk, within 120 days of the receipt of the application by the Town Clerk. The required time limits for such action may be extended by written agreement between the applicant and the PAA, with a copy of such agreement being filed in the office of the Town Clerk. Failure of the PAA to take action within said 120 days or extended time, if applicable, shall be deemed to be an approval of the application and site plan.

4. *Peer Review.* In addition to the application fee, the applicant shall be required to pay for reasonable consulting fees to provide peer review of the Plan Approval application, pursuant to G.L. c. 40R, § 11. The amount of the peer review fees and the method and time of payment thereof shall be established by the PAA and be incorporated in the rules and regulations adopted by the PAA relative to the application requirements for Plan Review and Plan Approval. Such fees shall be held by the Town in a separate account and used only for expenses associated with the review of the application by outside consultants, including, but not limited to, attorneys, engineers, urban designers, housing consultants, planners, and others. Any surplus remaining after the completion of such review, including any interest accrued, shall be returned to the applicant.

8.7.14 Decision

1. *Waivers.* Except where expressly prohibited herein, upon the request of the Applicant the Plan Approval Authority may waive dimensional and other requirements of Section 8.7, including the Design Standards, in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the ASGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section.

2. *Plan Review.* An Application for Plan Approval shall be reviewed for consistency with the purpose and intent of this Section, and such Plan Review shall be construed as an as-of-right review and approval process as required by and in accordance with the Enabling Laws.

3. *Plan Approval.* Plan Approval shall be granted by a simple majority where the PAA finds that:

- a. The applicant has submitted the required fees and information as set forth herein or in the applicable PAA rules and regulations; and
- b. The proposed Development Project and site plan meet the requirements and standards set forth in this Section 8.7, the applicable Design Standards and the PAA's rules and regulations, or a waiver has been granted therefrom;
- d. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated by means of suitable conditions. The PAA may attach conditions to the Plan Approval decision that are necessary to insure substantial compliance with this Section or to mitigate any extraordinary adverse impacts of the Development Project on nearby properties; and

- e. For a Development Project subject to the Affordability requirements of this Section shall also include written confirmation by the Monitoring Agent that all requirements of this Section have been satisfied,

4. *Plan Disapproval.* A site plan may be disapproved only where the PAA finds that:

- a. The applicant has not submitted the required fees and information as set forth herein; or
- b. The Project and site plan do not meet the requirements and standards set forth this Section 8.7, or a waiver has not been granted therefrom; or
- c. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

5. *Form of Decision.* All decisions of the PAA shall be by a majority vote of the members present and voting. The PAA shall issue to the applicant a copy of its decision containing the name and address of the owner, identifying the land affected, and the plans that were the subject of the decision, and certifying that a copy of the decision has been filed with the Town Clerk and that all plans referred to in the decision are on file with the PAA. If twenty (20) days have elapsed after the decision has been filed in the office of the Town Clerk without an appeal having been filed or if such appeal, having been filed, is dismissed or denied, the Town Clerk shall so certify on a copy of the decision. A copy of the decision shall be provided to the Inspector of Buildings. A copy of the decision or application bearing such certification shall be recorded in the Essex North Registry of Deeds and indexed in the grantor index under the name of the owner of record or recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the applicant.

8.7.15 Change in Plans after Approval by PAA

1. *Minor Change.* After Plan Approval, an applicant may apply to make minor changes involving minor utility or building orientation adjustments, or minor adjustments to parking or other site details that do not affect the overall buildout or building envelope of the site, or provision of open space, number of housing units, or housing need or affordability features. Such minor changes must be submitted to the PAA on redlined prints of the approved plan, reflecting the proposed change, and on application forms provided by the PAA. The PAA may authorize such changes at any regularly scheduled meeting, without the need to hold a public hearing. The PAA shall set forth any decision to approve or deny such minor change by motion and written decision, and provide a copy to the applicant for filing with the Town Clerk. A copy of the decision shall be provided to the Inspector of Buildings and shall be recorded at the Essex North Registry of Deeds.

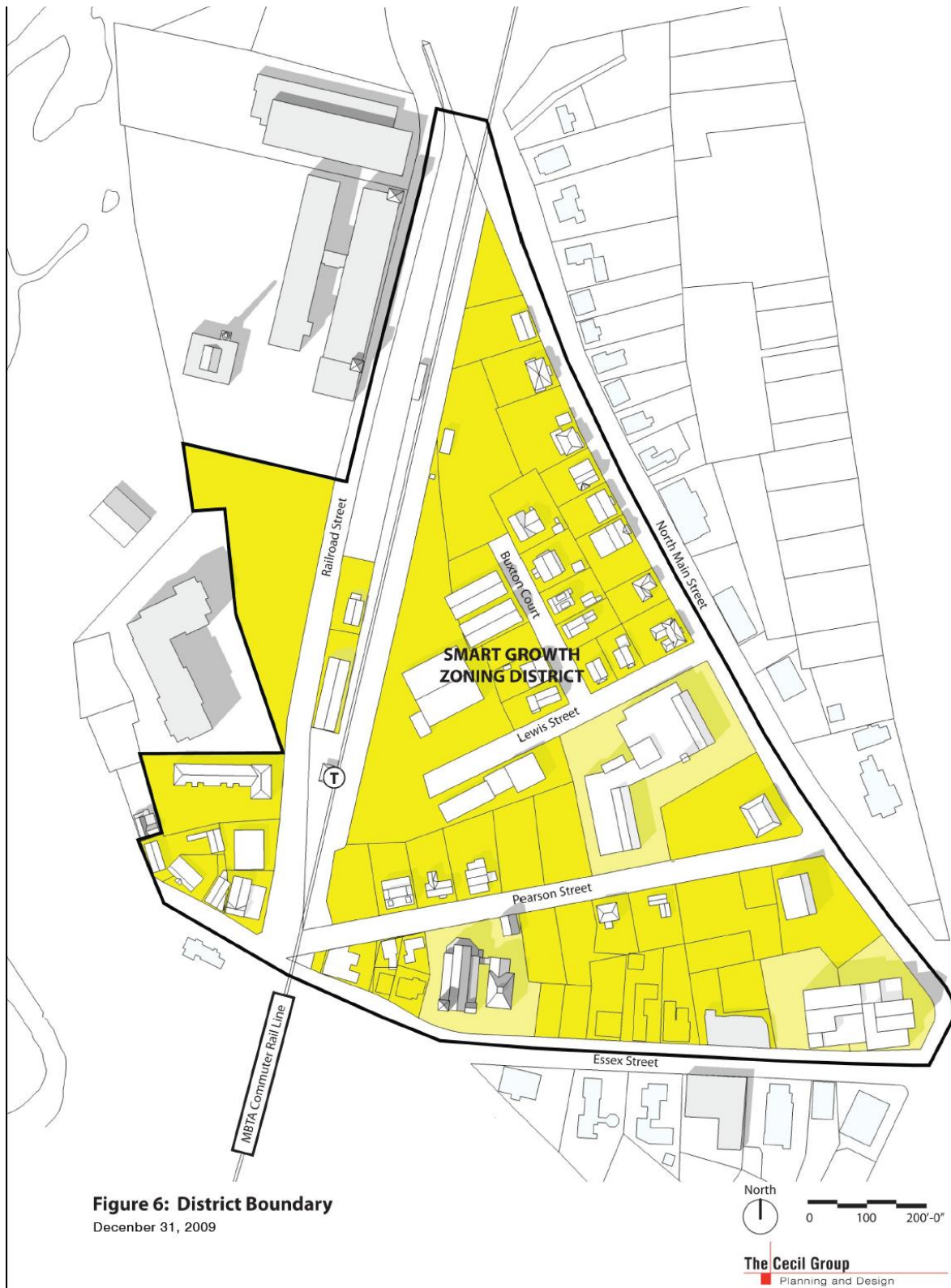
2. *Major Change.* Those changes deemed by the PAA to constitute a major change because of the nature of the change in relation to the prior approved plan, or because such change cannot be appropriately characterized as a minor change as described above, shall be processed by the PAA as a new application for Plan Approval pursuant to this Section.

8.7.16 Enforcement; Appeal. The provisions of the ASGOD shall be administered by the Zoning Enforcement Officer, except as otherwise provided herein. Any appeal arising out of action by the PAA regarding an application for Plan Approval decision for a Development Project shall be governed by the applicable provisions of G. L. Chapter 40R. Any other request for enforcement or appeal arising under this Section shall be governed by the applicable provisions of G. L. Chapter 40A.

8.7.17 Severability. If any provision of this Section 8.7 is found to be invalid by a court of competent jurisdiction, the remainder of Section 8.7 shall remain in full force. The invalidity of any provision of this Section 8.7 shall not affect the validity of the remainder of the Town's Zoning By-Law."

APPENDIX B

A. MAP OF THE ANDOVER SMART GROWTH OVERLAY DISTRICT



OR ANYTHING IN RELATION THERETO.

On the Request of the Town Yard Task Force and Planning Director

